

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:05-CR-4-1F
No. 5:10-CV-31-F

DANIEL WATLINGTON,
Movant,

v.

UNITED STATES OF AMERICA,
Respondent.

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O R D E R

Daniel Watlington filed a motion to vacate, set aside or correct his sentence [DE-487] on January 25, 2010, pursuant to 28 U.S.C. § 2255. The motion was received in the Clerk's Office on January 20, 2010, and is deemed to have been filed on that date. Watlington thereafter filed a Motion to Amend [DE-551] the § 2255 motion on August 27, 2010.

On September 9, 2010, the Government filed a Motion to Dismiss or for Summary Judgment [DE-553]. Watlington filed a lengthy response entitled, "Affidavit of Discharge for Summary Disposition Against the United States Government Summary Judgment Motion Fed. R. Civ. P. 12(b)(6)." *See* [DE-555]. The pending motions are ripe for disposition.

The undersigned is well-acquainted with this case, having presided over the trial of Watlington and his co-defendants in 2005, and having sentenced Watlington in 2006. The record also will reflect steady interaction between Watlington and the federal courts since that date. The court once again has reviewed the voluminous record amassed in this case, together with Watlington's § 2255 claims, allegations and exhibits filed in support thereof, and the Government's motion and supporting documentation.

The court deems it inexpedient to engage in a lengthy and repetitive analysis of Watlington's allegations. Rather, the court hereby ADOPTS and incorporates herein the Government's Motion and Incorporated Memorandum [DE-553] as correctly stating the court's

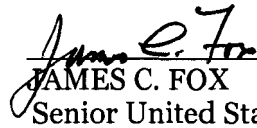
rationale for its ORDER that the Government's Motion to Dismiss or for Summary Judgment [DE-553], is ALLOWED, and Watlington's Motion to Amend [DE-551] is DENIED.

Having considered and denied Watlington's Motion to Vacate, Set Aside or Correct his conviction or sentence pursuant to 28 U.S.C. § 2255, I, JAMES C. FOX, am of the opinion that the Watlington has failed to make a substantial showing of the denial of a constitutional right, and that no reasonable jurist would find this court's assessment of Watlington's constitutional claims debatable. Therefore, it is ORDERED that a Certificate of Appealability is DENIED.

This is a final order. The Clerk of Court is DIRECTED to close this case.

SO ORDERED.

This, the 24th day of January, 2011.



JAMES C. FOX
Senior United States District Judge